



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No. 00-713-113)

PATENT

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In re Application of:

Mirkin et al.

Serial No. 09/975,384

Filed: October 11, 2001

For: Nanoparticles Having Oligonucleotides  
Attached Thereto and Uses Therefor

Examiner: TBA

Group Art Unit: 1656

Confirmation No.: 9813

PETITION TO THE COMMISSIONER UNDER 37 C.F.R. § 1.181(a)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notification of Abandonment mailed October 29, 2003 (copy attached), Applicants request withdrawal of the Notification of Abandonment under 37 CFR § 1.53(f) in view of the following remarks and attachments.

The Notice of Abandonment asserts that Applicant failed to timely file a response to the Notice to File Missing Parts mailed October 31, 2001. However, the Applicant believes that the Patent Office actually meant a Notice to Comply mailed October 31, 2001. Applicant submits that a fully responsive reply to the Notice to Comply was filed on December 20, 2001, a copy of which is included in Appendix A. The response included paper and computer readable forms of a sequence listing, a statement in accordance with 37 CFR § 1.821-1.825 verifying that the content of the

computer readable sequence listing was identical to both the paper copy submitted with the response and the copy originally submitted with the application, a transmittal letter including a certificate of mailing under 37 CFR § 1.8, and a return receipt postcard.

Given the attached documentation, Applicant respectfully submits that the response to the Notice to Comply of October 31, 2001 was timely filed and fully responsive. As such, Applicant submits that the Notice of Abandonment is in error. Further, Applicant submits that because the error arises from an Office mistake, a petition under 37 CFR § 1.181 is appropriate; whereas, the suggested petitions under 37 CFR §§ 1.137(a) or (b) are inappropriate because the abandonment was neither unintentional nor unavoidable. Consequently, Applicant respectfully requests withdrawal of the Notification of Abandonment. The Applicant further submits that no petition fee is due since the error arose from a Patent Office mistake. If the Commissioner believes otherwise, the Commissioner is authorized to deduct the fee from Deposit Account No. 13-2490.

Date:

11/25/03

Respectfully submitted,



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## APPENDIX A